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IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 396/2001

SHRI AMAR SINGH RATHORE & ANR.

Vs.

STATE OF RAJASTHAN & ORS.

DATE: 02.04.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. J.P. Goyal for the petitioners.

Mr. B.S. Chhaba, Public Prosecutor for the State.

Mr. P.S. Sirohi for the respondents.

The present criminal revision petition under Section 397 r/w Section 401 Cr.P.C. is directed against the order dated 17.05.2001 passed by the Additional Sessions Judge cum Special Judge (Essential Commodities Act), Jaipur in Criminal Revision Petition No. 62/1999 reversing the order dated 31.03.93 passed by the Additional District Magistrate-II, Jaipur City in Criminal Misc. Case No. 86/82 under Section 145 Cr.P.C., whereby possession of the disputed property was declared to be of the petitioners and held entitled to get back the possession.

The impugned order dated 17.05.2001 passed by the Revisional Court has been assailed on several counts. Learned counsel for the petitioners submits that the Revisional Court has not rightly exercised its powers.

(2)

On the contrary, learned counsel appearing for the respondents submits that the Revisional Court has rightly observed and set-aside the order dated 31.03.93 passed by the Additional District Magistrate-II, Jaipur City.

Having heard learned counsel for the petitioners, learned counsel for the respondents and upon careful perusal of the relevant record as also the impugned order dated 17.05.2001, it appears that the Revisional Court has not properly considered this aspect that who is the actual owner of the plot in question and further while reversing the order dated 31.03.93 passed by the Additional District Magistrate-II, Jaipur, the Revisional Court has also not considered the fact that the respondent No.2 Smt. Babli Devi was not party to the case before the Court below and filed the revision petition and further more several aspects have not been properly considered by the Revisional Court, which are required to be considered thoroughly.

Therefore, in the interest of justice, without expressing any opinion on the merits of the case, I deem it proper to quash and set-aside the impugned order dated 17.05.2001 passed by the Revisional Court and remand the matter back to the Revisional Court for fresh adjudication after giving due consideration to

(3)

the submissions advanced on behalf of the petitioners and shall pass fresh order on merit.

With these observations, the revision petition stands disposed of.

Record be sent back forthwith.

/KKC/

(K.S. RATHORE), J.